

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

A. STATUS OF THE CLAIMS

As result of the present amendment, claims 12-21 remain in the case for continued prosecution.

Claim 12 has been amended to more specifically recite that which Applicants believe to be their invention. As amended herein, $R_6 \neq H$ and thus, B_1 is not bis-substituted phenyl or aromatic moiety but tri-substituted. As amended previously, $n_3 \neq 0$ and thus, does not encompass compound having R_7 or R_9 directly attached on the phenyl or aromatic moiety. Support for the amended R_7 can be found in the original claim 1. Claim 12 is further amended to have a moiety for B_2 , which is merely a structural description of the originally disclosed matter, wherein a structure such as (a) having $R_6 = H$, which is supported by the original disclosure.

No new matter has been added.

B. SUMMARY OF EXAMINER INTERVIEW

The undersigned wishes to thank the Examiner for his courtesy extended during the telephone interview conducted on December 30, 2009. It is believed that this amendment includes, where appropriate, the suggestions from the Examiner.

C. ELECTION OF SPECIES AND THE EXAMINER'S SEARCH RESULT

On pages 2-5, the Examiner indicated the search has been expanded to the newly elected species, CAS# 205805-07-8, as the Applicants' response and amendments submitted on August 31, 2009 no longer encompass the previously expanded species (CAS#147950-73-0). On pages 4-5, the Examiner indicated that the first and the third elected species are under examination and claims 12-21 read on one or both species.

The structures of the elected species are provides in <Table 1>.

<Table 1>

First elected species by the Applicants	Second elected species by the Examiner	Third elected species by the Examiner
Compound 8 Found to be free of prior art as indicated in the Office Action, on page 3.	CAS#147950-73-0 No longer encompassed by the instant claims.	CAS# 205805-07-8 Newly elected as on page 4 of the pending Office Action.

D. CLAIM REJECTIONS UNDER 35 USC §102(b)

On pages 6-8, claims 12-16 and 18-19 are rejected under 35 U.S.C. § 102(b) for allegedly being anticipated by Guan et al. (cited in the previous office actions, J. Med. Chem. (1988) 41: 1956-1961). The Examiner indicated that Formula 1 in claim 12 encompasses the newly elected species which is also taught by Guan et al. as compound 25. Therefore, dependent claims 18-19 are also rejected.

Applicants respectfully traverse.

In contrary to what the Examiner has indicated, Applicants would like to respectfully draw the Examiner's attention that the pending claims 12-16 and 18-19 do not read on the newly elected species.

Nonetheless, without admitting the appropriateness of the Examiner's position but for the purpose of facilitating prosecution, claim 12 has been amended and the newly elected species is not encompassed by the instant claims as amended herein.

For the convenience of the Examiner, the newly elected species is compared to Formula 1 of claim 12 in Table 2, to the pending claim and to the currently amended claim.

<Table 2>

compound 25 from Guan et al.	Formula 1 in the instant claim 12	
<p>The compound requires: $R_2 = R_3 = \text{methyl}$, $R_4 = \text{SMe}$, $X = \text{O}$, $R_1 = T_1-B_1$, wherein $T_1 = -\text{NHCO-}$, B_1 is group (a) where $R_6 = \text{H}$, $R_7 = \text{OH}$, $n_2 = 0$ and $n_3 = 1$.</p>	<p>By pending claim R_2 or R_3 can be Methyl, R_4 can be SMe, X can be O, R_1 can be T_1-B_1, wherein T_1 can be $-\text{NHCO-}$, B_1 can be group (a) where R_6 can be H, n_2 can be 0, and n_3 can be 1, but <u>R_7 is mercapto, $-\text{ONO}$, $-\text{ONO}_2$ or SNO and cannot be OH</u>. Thus, in contrary to what the Examiner indicated, the elected species is not encompassed by Formula 1, as pending.</p>	<p>By claims as amended R_2 or R_3 can be Methyl, R_4 can be SMe, X can be O, R_1 can be T_1-B_1, wherein T_1 can be $-\text{NHCO-}$, B_1 can be group (a) where <u>R_6 cannot be H</u>, n_2 can be 0, and n_3 can be 1. Thus, the elected species is not encompassed by Formula 1.</p>

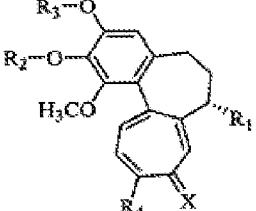
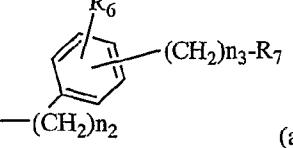
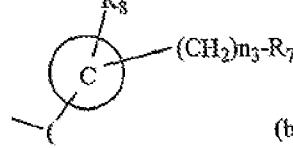
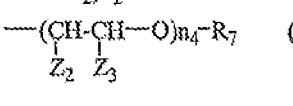
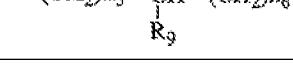
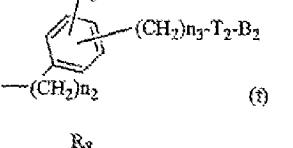
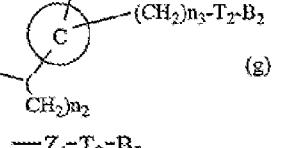
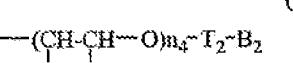
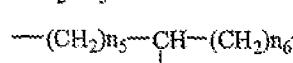
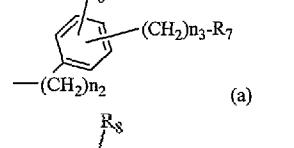
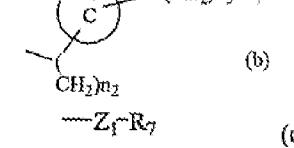
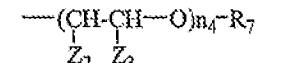
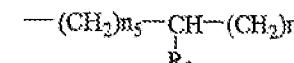
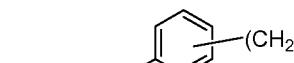
As explained in the table, not only the pending claim 12 but also the instant claim 12, as amended herein, do not encompass the elected species and thus, it is respectfully urged that the instant claims are not anticipated by the cited reference.

Therefore, reconsideration and withdrawal of the rejections is respectfully requested.

Furthermore, Applicants respectfully draw the Examiner's attention that the instant claim, as amended herein, would provide compounds of Formula 1, wherein phenyl or aromatic ring moiety in B_1 would be tri-substituted as R_6 is not hydrogen, as amended herein,

and having substituent R₇ bonded to ring moiety via at least one –CH₂– as n₃ = 1-5. Considering these two features, compounds of Formula 1 in the instant claim is not anticipated by any of the cited references. A summary for the compounds of Formula 1 is provided below in <Table 3> for the Examiner's convenience and to facilitate the prosecution process.

<Table 3>

	B ₁ , R ₆ ≠ H	B ₂
	   	
	    	    

In addition, claim 12 is amended to provide a moiety for B₂ which is merely a structural description of a species wherein R₆ = H for a phenyl ring, such as structure (a). The original disclosure supports this amendment. No new matter is added.

For all of the amendments and reasons above, reconsideration and withdrawal of this and future rejections is respectfully requested.

E. ALLOWABLE SUBJECT MATTER

On page 10, the Examiner indicated that claims 17 and 20-21 (part) contain allowable subject matter only related to the first elected species. Applicants respectfully disagree. As amended herein, it is respectfully urged that the generic claim 12 and the compounds of Formula (I), as amended herein, be allowable upon reconsideration and claims 17 and 20-21 as full and the other pending claims be in a allowable condition.

F. FEES

This response is being filed with a petition for three (3) month extension and required fee. Thus, no additional fees are believed to be due. If, on the other hand, it is determined that any further fees are due or any overpayment has been made, the Assistant Commissioner is hereby authorized to debit or credit such sum to Deposit Account No. 02-2275.

Pursuant to 37 C.F.R. 1.136(a)(3), please treat this and any concurrent or future reply in this application that requires a petition for an extension of time for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The fee associated therewith is to be charged to Deposit Account No. 02-2275.

An early and favorable action on the merits is earnestly solicited.

G. CONCLUSION

In view of the actions taken and arguments presented, it is respectfully submitted that each and every one of the matters raised by the Examiner have been addressed by the present amendment and that the present application is now in condition for allowance.

It is respectfully urged that the Examiner contact the undersigned with any question.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,
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